

CAUSE NO. _____

BASSAM ABDALLAH,
Plaintiff

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IN THE DISTRICT COURT OF

VS.

HARRIS COUNTY, TEXAS

LIFE TIME FITNESS, INC. d/b/a
LIFE TIME CHAMPIONS
Defendant

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_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW, Plaintiff Bassam Abdallah, who files his Original Petition against Defendant Life Time Fitness, Inc. d/b/a Life Time Champions, and for cause of action would respectfully show this Court the following:

I. PARTIES

Plaintiff Bassam Abdallah is an individual residing in Texas.

Defendant Life Time Fitness, Inc. d/b/a Life Time Champions is a for-profit corporation doing business in Texas. Defendant may be served through its registered agent: National Registered Agents, Inc., located at 1999 Bryan St., Ste. 900, Dallas, TX 75202-3136.

Plaintiff specifically invokes the right to institute this suit against whatever entities were conducting business using the assumed or common name of "Life Time Champions" with regard to the events described in this Petition. Plaintiff expressly invokes his right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of the party or parties substituted at a later time upon the motion of any party or one of the Court.

II. DISCOVERY CONTROL PLAN

Plaintiff seeks to conduct discovery under Level 3.

III. JURISDICTION AND VENUE

This court has jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements. Plaintiff seeks monetary relief in an amount between \$250,000 and \$500,000. Venue is proper in Harris County under Texas Civil Practice & Remedies Code §15.002 because this is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

IV. FACTUAL BACKGROUND

On or about January 10, 2021, Plaintiff was at the Life Time Champions, which is owned, operated, managed, and/or maintained by Defendant. While inside a fitness studio room, he slipped on a wet floor, injuring his back, hip, and knee. There were no signs or other indications that the floor was wet and had just been sprayed with disinfectant. Defendant failed to ensure that the areas sprayed with cleaning solution were wiped down before moving onto other areas. Defendant was aware that traffic would be walking in and out of this room, posing a risk of slip and fall to those individuals. Despite this risk, Defendant failed to properly address the issue, leading to an unreasonable risk of harm to Plaintiff and others.

As a result of this incident, Plaintiff has suffered severe injuries, including a medial meniscus tear in his knee and displacement of several discs in his back.

V. CAUSES OF ACTION

A. NEGLIGENCE

Plaintiff re-alleges each aforementioned allegation as if fully incorporated below.

Plaintiff would show that the incident in question and his resulting injuries and damages were brought about and caused due to the negligence of Defendant through its own actions and/or the actions/omissions of one or more of its agents, servants, and/or employees in one or more of the following ways:

1. Failing to properly maintain the premises in question in a reasonably safe condition and free of hazards to Plaintiff and invitees entering the premises;
2. Creating and/or failing to correct the unreasonably dangerous conditions;
3. Failing to warn Plaintiff and others;
4. Failing to properly train its agents, servants, and/or employees regarding the proper manner in which to make the facility reasonably safe; and
5. Failing to implement proper policies, rules, and/or procedures to make its facility reasonably safe.

Each of these acts and omissions, singularly or in combination with others, constitute negligence which was the proximate cause of this incident and Plaintiff's injuries.

B. VICARIOUS LIABILITY, RESPONDEAT SUPERIOR, AGENCY

Plaintiff re-alleges each aforementioned allegation as if fully incorporated below.

Defendant's employees and workers are agents of Defendant. As such, Defendant is responsible for their conduct, due to the relationship that existed, among other acts and omissions of negligence.

C. PREMISES LIABILITY

Plaintiff re-alleges each aforementioned allegation as if fully incorporated below.

Plaintiff was an invitee on premises under Defendant's control. Defendant failed to use ordinary care to reduce, correct or eliminate an unreasonable risk that Defendant knew or should have known about. As a result, Plaintiff suffered damages.

VI. DAMAGES

Plaintiff seeks damages for physical pain and suffering, mental anguish, physical impairment, disfigurement, medical expenses, loss of earning capacity and loss of household services, past and future. Plaintiff also seeks costs of suit, pre-judgment and post-judgment interest at the appropriate rate allowed by law, and any other relief to which Plaintiff may show himself justly entitled.

VII. TRCP 193.7

Pursuant to Texas Rule of Civil Procedure 193.7, Defendant is hereby put on actual notice that any documents produced in response to written discovery will be used in pretrial proceedings and at trial and will be deemed authentic unless they make valid objections to authenticity pursuant to this rule.

VIII. PRESERVATION OF EVIDENCE

Plaintiff hereby requests and demands that Defendant and its agents, attorneys, and insurers preserve and maintain all evidence pertaining to any claim or defense to the incident made the basis of this lawsuit, or the damages resulting therefrom, including but not limited to photographs; videotapes; audiotapes; recordings; business records, memoranda; files; facsimiles; e-mails; voicemails; text messages; sales receipts; invoices; telephone messages; diary entries; any incident report; and any electronic image, data or information related to the referenced incident. Failure to maintain such items will constitute a "spoliation" of the evidence and may subject Defendant to sanctions.

IX. JURY DEMAND

Plaintiff respectfully demands a jury trial.

X. PRAYER

For these reasons, Plaintiff asks that Defendant be cited to appear and answer this suit.

Plaintiff prays that he recover judgment from Defendant for damages in such an amount that the evidence may show, and the trier of fact may determine to be proper. Plaintiff prays for any and all other relief to which he may be justly entitled.

Respectfully submitted,

DALY & BLACK, P.C.

/s/ Amanda Blons

Andrew Dao
State Bar No. 24082895
Amanda Blons
State Bar No. 24117944
2211 Norfolk St., Ste. 800
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NICHOLS LAW GROUP, PLLC

/s/ Lester B. Nichols, III

Lester B. Nichols, III
State Bar No. 24110596
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(713) 705-2250
(281) 587-0668 (fax)
law@lesternichols.com

ATTORNEYS FOR PLAINTIFF

CAUSE NO. 2022-11316

BASSAM ABDALLAH § **IN THE DISTRICT COURT OF**
v. § **HARRIS COUNTY, TEXAS**
LIFE TIME FITNESS, INC. d/b/a §
LIFE TIME CHAMPIONS § **269TH JUDICIAL DISTRICT**

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **LIFE TIME, INC. (INCORRECTLY NAMED LIFE TIME FITNESS, INC. D/B/A LIFE TIME CHAMPIONS)**, Defendant in the above-styled and numbered cause, and files its Original Answer.

I.

Pursuant to the provisions of Rule 92 of the Texas Rules of Civil Procedure, Defendant denies each and every, all and singular, the allegations contained in Plaintiff's Original Petition, and any amendment thereto, and demands strict proof thereof, hereby reserving its right to amend its Answer to assert other and further defenses in the premises.

II.

Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Defendant hereby demands a trial by jury and makes application therefore.

III.

Defendant asserts that the Plaintiff has failed to properly mitigate his damages.

IV.

Specially answering, Defendant says on the occasion in question the minor Plaintiff failed to exercise that degree of care which a person of ordinary care would have exercised in the same or similar circumstances, and that such failure was the sole cause and/or proximate cause of the alleged occurrence and injuries.

V.

Defendant contends that pursuant to § 41.0105 of the Texas Civil Practice and Remedies Code, the Plaintiff's recovery of medical or health care expense is limited to the amount actually paid or incurred by or on behalf of the minor Plaintiff.

I.

Defendant contends that to the extent that Plaintiff is asserting a recovery of loss of earnings, loss of earning capacity, or loss of contributions of a pecuniary value on behalf of the minor Plaintiff, the limitations of § 18.091 of the Texas Civil Practice and Remedies Code apply.

VII.

Defendant says minor Plaintiff's injuries and damages, in whole or in part, are due to pre-existing conditions.

VIII.

Further, Defendant pleads TEX. FIN. CODE § 304.003 with regard to the proper statutory computation of post-judgment interest. Pre-judgment interest rate is the same as the post-judgment interest rate pursuant to TEX. FIN. CODE § 304.103. Pursuant to TEX. FIN. CODE § 304.1045, pre-judgment interest is not recoverable on a finding, if any, of future damages found by the trier of fact.

IX.

Pleading further, alternatively and by way of affirmative defense, if Plaintiff has settled, or does settle with any other person or entity, then Defendant is entitled to a credit for settlement under Tex. Civ. Prac. & Rem. Code § 33.012.

X.

Pursuant to TRCP 193.7, Defendant intends to utilize, refer to and offer into evidence against each named Plaintiff at any pretrial or trial proceeding, each and every document, writing, pleading, or tangible thing produced or exchanged by Plaintiff through the written or

oral discovery process in the instant cause.

XI.

Pleading further Defendant would assert that, as an affirmative defense, Defendant would assert that Plaintiff has released and waived his claims against Defendant by written contract. In the alternative, Defendant would state that, per the doctrine of promissory estoppel, Plaintiff is precluded from denying the existence of an agreement wherein Plaintiff agreed to release Defendant from claims of negligence and premises liability, and covenanted not to sue for same, and for which Defendant relied on these promises.

XII.

Pleading further Defendant would assert that Plaintiff expressly assuming the risk of utilizing the Defendant's premises and services, including the risk of sustaining injuries or damages for same.

XIII.

Pleading further Defendant would state that there is a complete diversity of citizenship and that Defendant reserves the right to remove this matter to Federal Court.

WHEREFORE PREMISES CONSIDERED, Defendant prays that Plaintiff takes nothing by reason of this suit, that Defendant be discharged and go hence with its costs without day, and for all such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled, for which it will in duty bound forever pray.

Respectfully submitted,

LORANCE THOMPSON



Scott B. Novak
SBN: 24051124
2900 North Loop West, Suite 500

Houston, Texas 77092
Telephone: 713/868-5560
Facsimile: 713/864-4671
sbn@lorancethompson.com
**ATTORNEY FOR DEFENDANT,
LIFE TIME, INC. (INCORRECTLY
NAMED LIFE TIME FITNESS, INC.
D/B/A LIFE TIME CHAMPIONS)**

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of March, 2022 a true and correct copy of the foregoing instrument was served electronically, in person, by mail, by commercial delivery service, by fax, or by email, to the following counsel of record:

Andrew Dao
Amanda Blons
DALY & BLACK, PC
2211 Norfolk Street, Suite 800
Houston, Texas 77098
E-Mail: ecfs@dalyblack.com

Lester B. Nichols, III
NICHOLAS LAW GROUP, PLLC
15422 Wilshire Court
Houston, Texas 77069
E-Mail: law@lesternichols.com



Scott B. Novak

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Wendy Fuentes on behalf of Scott Novak
Bar No. 24051124
wjf@lorancethompson.com
Envelope ID: 62785853
Status as of 3/21/2022 1:39 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Lester B.Nichols, III		law@lesternichols.com	3/21/2022 12:14:27 PM	SENT
Andrew Dao		ecfs@dalyblack.com	3/21/2022 12:14:27 PM	SENT
Claudia Rodriguez		csanchez@lorancethompson.com	3/21/2022 12:14:27 PM	SENT
Scott B.Novak		sbn@lorancethompson.com	3/21/2022 12:14:27 PM	SENT

CAUSE NO. 2022-11316

BASSAM ABDALLAH
PLAINTIFF

VS.

LIFE TIME FITNESS, INC. D/B/A LIFE TIME
CHAMPIONS
DEFENDANT

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IN THE 269th District Court

HARRIS COUNTY, TX

RETURN OF SERVICE**ON Tuesday, March 8, 2022 AT 11:37 AM**

CITATION CORPORATE, PLAINTIFF'S ORIGINAL PETITION for service on LIFE TIME FITNESS INC (D/B/A LIFE TIME CHAMPIONS) (A FOR-PROFIT CORPORATION) C/O REGISTERED AGENT NATIONAL REGISTERED AGENTS INC came to hand.

ON Thursday, March 10, 2022 AT 2:35 PM, I, DON ANDERSON, PERSONALLY DELIVERED THE ABOVE-NAMED DOCUMENTS TO: LIFE TIME FITNESS INC (D/B/A LIFE TIME CHAMPIONS) (A FOR-PROFIT CORPORATION) C/O REGISTERED AGENT NATIONAL REGISTERED AGENTS INC, by delivering to Intake Specialist: Tierica Williams, 1999 BRYAN ST STE 900, DALLAS, DALLAS COUNTY, TX 75201.

My name is DON ANDERSON. My address is 1900 Brown, BALCH SPRINGS, TX 75180. I am a private process server certified by the Texas Judicial Branch Certification Commission (PSC 4232, expires 8/31/2022). My e-mail address is info@easy-serve.com. My date of birth is 7/14/1956. I am in all ways competent to make this statement, and this statement is based on personal knowledge. I am not a party to this case and have no interest in its outcome. I declare under penalty of perjury that the foregoing is true and correct.

Executed in DALLAS COUNTY, TX on Thursday, March 10, 2022.

/S/ DON ANDERSON

CAUSE NO. 202211316

COPY OF PLEADING PROVIDED BY PLT

RECEIPT NO: 923945 TRACKING NO: 73979743
EML

Plaintiff:
ABDALLAH, BASSAM
vs.
Defendant:
LIFE TIME FITNESS INC (D/B/A LIFE TIME CHAMPIONS)

In The 269th
Judicial District Court of
Harris County, Texas
201 CAROLINE
Houston, Texas

CITATION CORPORATE

THE STATE OF TEXAS
County of Harris

To: **LIFE TIME FITNESS INC (D/B/A LIFE TIME CHAMPIONS) (A FOR-PROFIT CORPORATION)**
MAY BE SERVED THROUGH ITS REGISTERED AGENT
NATIONAL REGISTERED AGENTS INC
1999 BRYAN ST STE 900, DALLAS TX 75202 - 3136

Attached is a copy of: PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on February 23, 2022 in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may employ an attorney. If you or your Attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration date of 20 days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

This citation was issued on March 7, 2022, under my hand and seal of said court.

Issued at the request of:

DAO, ANDREW ANH
2211 NORFOLK ST., SUITE 800
HOUSTON, TX 77098
832-641-8484
Bar Number: 24082895



Marilyn Burgess

Marilyn Burgess, District Clerk

Harris County, Texas
201 CAROLINE Houston Texas 77002
(PO Box 4651, Houston, Texas 77210)

Generated By: PATRICIA JONES

**Office of the Minnesota Secretary of State
Certificate of Good Standing**

I, Steve Simon, Secretary of State of Minnesota, do certify that: The business entity listed below was filed pursuant to the Minnesota Chapter listed below with the Office of the Secretary of State on the date listed below and that this business entity is registered to do business and is in good standing at the time this certificate is issued.

Name:	Life Time, Inc.
Date Filed:	10/15/1990
File Number:	6U-412
Minnesota Statutes, Chapter:	302A
Home Jurisdiction:	Minnesota

This certificate has been issued on: 12/30/2020



A handwritten signature in black ink that reads "Steve Simon".

Steve Simon
Secretary of State
State of Minnesota

HCDistrictclerk.com

ABDALLAH, BASSAM vs. LIFE TIME FITNESS INC
(D/B/A LIFE TIME CHAMPIONS)
Cause: 202211316 CDI: 7 Court: 269

3/25/2022

APPEALS

No Appeals found.

COST STATEMENTS

No Cost Statements found.

TRANSFERS

No Transfers found.

POST TRIAL WRITS

No Post Trial Writs found.

ABSTRACTS

No Abstracts found.

SETTINGS

No Settings found.

NOTICES

No Notices found.

SUMMARY

CASE DETAILS		CURRENT PRESIDING JUDGE	
File Date	2/23/2022	Court	269 th
Case (Cause) Location		Address	201 CAROLINE (Floor: 13) HOUSTON, TX 77002 Phone: 7133686370
Case (Cause) Status	Active - Civil	JudgeName	CORY SEPOLIO
Case (Cause) Type	PERSONAL INJ (NON-AUTO)	Court Type	Civil
Next/Last Setting Date	N/A		
Jury Fee Paid Date	3/21/2022		

ACTIVE PARTIES

Name	Type	Post Jdgmt	Attorney
ABDALLAH, BASSAM	PLAINTIFF - CIVIL		DAO, ANDREW ANH
LIFE TIME FITNESS INC (D/B/A LIFE TIME CHAMPIONS)	DEFENDANT - CIVIL		NOVAK, SCOTT BENJAMIN
LIFE TIME CHAMPIONS	DEFENDANT - CIVIL		NOVAK, SCOTT BENJAMIN

LIFE TIME FITNESS INC (D/B/A LIFE TIME
CHAMPIONS) (A FOR-PROFIT)

REGISTERED AGENT

LIFE TIME, INC. (INCORRECTLY NAMED LIFE TIME DEFENDANT - CIVIL

NOVAK,
SCOTT
BENJAMIN**INACTIVE PARTIES**

No inactive parties found.

JUDGMENT/EVENTS

Date	Description	Order Signed	Post Jdgmt	Pgs /Page	Volume	Filing Attorney	Person Filing
3/21/2022	ANSWER ORIGINAL PETITION			0		NOVAK, SCOTT BENJAMIN	LIFE TIME FITNESS INC (D/B/A LIFE TIME CHAMPIONS)
3/21/2022	JURY FEE PAID (TRCP 216)			0			
3/21/2022	ANSWER ORIGINAL PETITION			0		NOVAK, SCOTT BENJAMIN	LIFE TIME CHAMPIONS
3/21/2022	JURY FEE PAID (TRCP 216)			0			
3/21/2022	ANSWER ORIGINAL PETITION			0		NOVAK, SCOTT BENJAMIN	LIFE TIME, INC. (INCORRECTLY NAMED LIFE TIME
2/23/2022	JURY DEMAND MADE (TRCP 216)			0			
2/23/2022	JURY FEE PAID (TRCP 216)			0			
2/23/2022	ORIGINAL PETITION			0		DAO, ANDREW ANH ABDALLAH, BASSAM	

SERVICES

Type	Status	Instrument	Person	Requested	Issued	Served	Returned	Received	Tracking	Deliver To
CITATION	SERVICE	ORIGINAL	LIFE TIME	2/23/2022	3/7/2022	3/10/2022			73979743	E-MAIL
CORPORATE RETURN/EXECUTED	PETITION		FITNESS INC (D/B/A LIFE TIME CHAMPIONS) (A FOR- PROFIT							

1999 BRYAN ST STE 900 DALLAS TX 75202

DOCUMENTS

Number	Document	Post Jdgmt	Date	Pgs
100988958	DEFENDANTS ORIGINAL ANSWER		03/21/2022	5
	DEFENDANTS ORIGINAL ANSWER		03/21/2022	
100821299	Return of Service		03/10/2022	2
100547794	Plaintiff's Original Petition		02/23/2022	5
> 100547795	Request for Issuance of Service		02/23/2022	1